

REMARKS

The Advisory Action dated July 31, 2008 has been received and its contents carefully noted. Claims 1-12 are pending and rejected.

By this response, claims 1 and 6 have been amended and new dependent claims 13 and 14 have been added. No new statutory matter has been added. All claim amendments are supported by the original disclosure. Accompanying this Response is a Petition for a 3 month Extension of Time with the requisite fee for filing on or before October 3, 2008. Also, a Request for Continued Examination Request form is submitted with the requisite fee herewith.

It is respectfully submitted that the amendments to claims 1 and 6 (and new dependent claims 13 and 14) find support in the original application (e.g., the original drawings as in Figure 3 and the associated disclosure as well as, for example, the additional variants described as possible embodiments for the head mounting frame in paragraph 41 of the original application). It is respectfully submitted that claims 1 and 6 and new dependent claims 13 and 14 are in full compliance with 35 USC 112, first paragraph. Dependent claims 13 and 14 illustrate that “unitary” is being used in a consistent sense with the disclosure as that disclosure would be understood by one of ordinary skill in the art (e.g., examples being a monolithic structure or a unitary structure comprised of integrated units).

I. 35 USC § 102 (b) Rejection

Claims 1, 5-6, 9 and 11-12 stand rejected as being anticipated by Kuwada et al (US 2002/0029748). The rejection as to claims 1, 5-6, 9 and 11-12 is traversed. Applicant respectfully requests withdrawal and reconsideration in view of the claim amendments and arguments presented herein.

With regard to independent claims 1 and 6, in the Advisory Action the Examiner asserts the following:

“Thus, it can be said that Kuwada teaches a head mounting frame comprising innumerable portions, some of which noticeably support the showerhead, like element 108, and some of which do not, like element 84. This interpretation is acceptable because the claim does not absolutely require that every portion of the head mounting frame support the showerhead.”

This ground for rejection is respectfully submitted to be improper. That is, as designated in MPEP 2111, during patent examination, the pending claims are to be given their broadest reasonable interpretation and that –

“The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.”

It is respectfully submitted that an interpretation that the disk shaped element (“lid”) 84, (which is an independent element received entirely by the showerhead pocket) represents part of a head mounting frame (in conjunction with the ceiling portion 108), would not have been reached by one of ordinary skill in the art.

Furthermore, claims 1 and 6, as amended, disclose the head mounting frame being a unitary structure. Applicant respectfully asserts that Kuwada does not teach or suggest this claimed feature of amended claims 1 and 6.

As recognized by the Examiner, Kuwada’s head device has two distinct elements, 84 and 108, which are asserted in the Office Action to represent the claimed “head mounting frame”. It is evident that these two independent elements do not represent a unitary structure. Because the head mounting frame of Kuwada is not unitary, amended claims 1 and 6 are each structurally distinguishable over Kuwada. As such, amended claims 1 and 6 are further patentably distinguishable over Kuwada.

Similarly, dependent claims 5, 9 and 11-12 are also respectfully submitted to be allowable based on the same arguments on the merits as provided for claims 1 and 6. Accordingly, Applicant respectfully solicits withdrawal and reconsideration of the rejection to claims 5-6, 9 and 11-12.

II. 35 USC § 103 (a) Rejection

Claims 2 and 7 stand rejected as being unpatentable over Kuwada (US 2002/0029748) in view of Hystros (US 2003/0132319). In addition, claims 3 and 8 stand rejected as being unpatentable over Kuwada in view of Metzner et al (US 2002/0192370). Further, claims 4 and 10 stand rejected as being unpatentable over Kuwada in view of Fujikawa (US 5,595,606). The rejection as to claims 2, 3, 4, 7, 8 and 10 is traversed.

Claims 2, 3, 4, 7, 8 and 10 are also respectively submitted to be allowable based on similar arguments on the merits for amended claims 1 and 6. Accordingly, Applicant respectfully requests withdrawal and reconsideration of the rejection to claims 2, 3, 4, 7, 8 and 10.

The Specification has been amended to describe in more direct fashion that which was featured in the original disclosure concerning the unitary head mounting frame as illustrated, for example, in Figure 3 and its monolithic nature as presented in the Figure 3 and 4 illustrations.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Therefore, it is respectfully requested that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

If any fees are due in connection with the filing of this Amendment, such as fees under 37 C.F.R. §§1.16 or 1.17, please charge the fees to Deposit Account 02-4300; Order No. 033082 R 367.

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By: 

Dennis C. Rodgers, Reg. No. 32,936
1130 Connecticut Avenue, N.W., Suite 1130
Washington, DC 20036
Telephone: 202-263-4300
Facsimile: 202-263-4329

Date: October 3, 2008